

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA

MEMORANDUM & ORDER
10-CR-820 (NGG)

-against-

BENITO IL DEFONSO,

Defendant.

NICHOLAS G. GARAUFIS, United States District Judge.

Defendant Benito Il Defonso moves, *pro se*, for compassionate release under 18 U.S.C. § 3582(c)(1)(A), arguing that his health conditions, coupled with the ongoing COVID-19 pandemic, constitute “extraordinary and compelling” circumstances meriting his release prior to the end of his current sentence. (See Mot. for Compassionate Release (“Mot.”) (Dkts. 246, 247).) The Government opposes Mr. Il Defonso’s motion, arguing that he has failed to demonstrate that he has a medical condition giving rise to “extraordinary and compelling reasons” for his release. (See Gov’t Opp. to Mot. (“Opp.”) (Dkt. 249).)

As this court has previously noted, while there is no doubt that the COVID-19 pandemic “poses a serious health risk to this country’s prison populations,” the “risks posed by the pandemic alone do not constitute extraordinary and compelling reasons for release, absent additional factors such as advanced age or serious underlying health conditions that place a defendant at greater risk of negative complications from the disease.” *United States v. Mongelli*, No. 02-cr-307 (NGG), 2020 WL 4738325, at *2 (E.D.N.Y. Aug. 14, 2020). Here, Mr. Il Defonso is 44 years old, which does not place him in a high-risk age bracket. In addition, the Centers for Disease Control and Prevention does not consider any of the medical conditions he suffers from to be conditions

that place individuals at a heightened risk for severe illness from COVID-19.

Finally, Mr. Il Defonso has not demonstrated that his likelihood of contracting the virus at FCI Otisville, which has taken measures to mitigate the risk of exposure and currently reports only two cases of COVID-19 (and none in Mr. Il Defonso's housing unit), is so high as to "substantially diminish[]" his "ability . . . to provide self care" by avoiding exposure to COVID-19. *See* U.S.S.G. § 1B1.13(1)(A) & Application Note 1(A).

Because Mr. Il Defonso has not established that he meets the requirements of 18 U.S.C. § 3582(c)(1)(A)(i), the court concludes that compassionate release is not warranted under the present circumstances. Defendant's motion is therefore DENIED.

SO ORDERED.

Dated: Brooklyn, New York
October 9, 2020

/s/ Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge